

SUMMARY REPORT

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

LOG NO

1082330

TYPE

CR

DATE OF REPORT

13-DEC-2017

**INSTRUCTIONS: SUBMIT ORIGINAL AND 3 COPIES IF ASSIGNED TO SAME UNIT AS ACCUSED.
SUBMIT ORIGINAL AND 4 COPIES IF NOT ASSIGNED TO SAME UNIT AS**

TO:

☐ CHIEF ADMINISTRATOR,
CIVILIAN OFFICE OF POLICE ACCOUNTABILITY☐ CHIEF,
BUREAU OF INTERNAL AFFAIRS

FROM - INVESTIGATOR'S NAME	RANK	STAR NO	EMPLOYEE NO	UNIT ASSIGNED	UNIT DETAILED
DAVIS, LAKEISHA	9182		4368	113	

REFERENCE NOS.(LIST ALL RELATED C.L., C.B., I.R., INVENTORY NOS., ETC., PERTINENT OF THIS INVESTIGATION)

INCIDENT ADDRESS: 4523 W. GRAND AVE, CHICAGO, IL 60639

DATE / TIME: 20-SEP-2016 20:09

BEAT: 2533

ACCUSED

NAME	RANK	STAR NO	EMP NO	UNIT ASSIGNED	UNIT DETAILED	SEX/RACE	DOB	APPOINTED DATE	ON DUTY ?	SWORN ?
VALE, DENIS	9171	1087	30297	014		M / S	09-NOV-1966	17-FEB-1998	YES	YES
KHAN, KASHIF	9161	4471	105203	014		M / API	25-SEP-1973	24-SEP-2007	YES	YES

REPORTING PARTY

NAME	ADDRESS*	CITY	TELEPHONE	SEX / RACE	DOB / AGE
FINE, MICHAEL	RANK: 9173, STAR NO: 287, EMP NO: 16782			M / WHI	17-OCT-1966 / 51

VICTIMS

NAME	ADDRESS*	CITY	TELEPHONE	SEX / RACE	DOB / AGE
TAYLOR, JUSTIN	3220 W. FULTON BLVD	CHICAGO, IL	773-696-7730	M / BLK	24-APR-1998 / 19

WITNESSES

NAME	ADDRESS*	CITY	TELEPHONE	SEX / RACE	DOB / AGE
LARA, VALENTE	RANK: 9161, STAR NO: 13954, EMP NO: 99117			M / S	27-SEP-1979 / 38

* IF CPD MEMBER, LIST RANK, STAR, EMPLOYEE NOS. IN ADDRESS, PAX/BELL IN TELEPHONE BOX.

ALLEGATIONS

** SEE LAST PAGE FOR INSTRUCTIONS FOR STATING ALLEGATIONS, AND COMPLETING THE REMAINDER OF THE SUMMARY REPORT.

See Report

SUMMARY OF INCIDENT:

On September 20, 2016, at approximately 8:01 p.m., in the vicinity of XXXX W. Grand Ave., following a brief traffic pursuit, Sergeant A physically abused and directed profanities towards the victim, Subject 1. Additionally, on the same date, time and approximate location, Officer A directed profanities at Civilian 1 during a foot pursuit.

ALLEGATIONS:

On September 21, 2016, Lieutenant A, #XXX, telephoned the office of the Independent Police Review Authority (IPRA)¹ and registered a complaint with IPRA Investigator A. It is alleged that on September 20, 2016, at approximately 8:01 p.m., in the vicinity of XXXX W. Grand Ave., **Sergeant A, Star XXXX;**

- 1) Used his foot in a downward motion (stomped) on the upper back/neck/head area of the victim, Subject 1, in violation of Rule 2 and Rule 8.
- 2) Stated words to the effect of, "Get on the floor motherfucker," in violation of Rule 2 and Rule 9.
- 3) Stated words to the effect of, "I'll beat the fuck out of you," in violation of Rule 2 and Rule 9.

It is also alleged that on the same date, approximate time and approximate location during a foot pursuit, **Officer A, Star XXXX;**

- 1) Stated words to the effect of, "Hey motherfucker, I know who you are [Civilian 1]," in violation of Rule 2 and 9.

APPLICABLE RULES AND LAWS:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

Rule 9: Engaging in any unjustified verbal or physical altercation with any person.

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

INVESTIGATION:

According to the Initiation Report submitted by Lieutenant A, on September 20, 2016, at approximately 10:00 p.m., Sergeant A informed Lieutenant A that he would be submitting a Tactical Response Report (TRR) relative to an arrest made at approximately 10:05 p.m. on September 20, 2016 regarding an individual who was occupying a reported stolen motor vehicle and resisted arrest.

Lieutenant A reviewed the body worn camera footage of the event from Officer B and Sergeant A's body worn cameras. During the review of Officer B's body worn camera, Lieutenant A observed that Sergeant A used his foot in a downward action upon the upper back/neck area of a subject, now known as Subject 1, who was resisting the attempt of Officer B to place Subject 1 into custody.

Lieutenant A reported that Subject 1 continued to resist arrest and was eventually placed into custody. Lieutenant A added that Subject 1 was heard on the video complaining that he had been "stomped" on the head. The complaint was made numerous times during the seventeen minute video. Subject 1 received a medical evaluation from CFD Ambulance #XX. It was reported that Subject 1 sustained minor abrasions, lacerations and bruising to his chin and face. An evidence technician photographed Subject 1's injuries. (Att. 4)

On October 25, 2016, at 3:50 p.m. the reporting investigator spoke with a female who identified herself as Civilian 2 via telephone. Civilian 2 related that she is Subject 1's mother. Civilian 2 stated Subject 1 informed her of the incident, but was afraid to speak with an attorney or anyone else about the incident. Civilian 2 related that she would speak with Subject 1 at another time regarding his cooperation with the investigation.

On November 3, 2016, at 4:30 p.m. the reporting investigator spoke with Civilian 2 via telephone. Civilian 2 stated that Subject 1 was not present and had shown no interest in cooperating with the investigation. (Att. 71)

According to **Department Reports**, Officer A observed Civilian 1, a known and documented XXth District car thief with multiple prior arrests, travelling westbound on North Avenue not wearing a seat belt. Officer A with Officer B and Sergeant A were travelling eastbound on North Avenue and made a U-turn, activated their emergency equipment, and attempted to curb the vehicle driven by Civilian 1.

The vehicle driven by Civilian 1 failed to stop and fled westbound on North Avenue. Responding officers immediately informed OEMC and provided the dispatcher with the license plate of the vehicle driven by Civilian 1. OEMC informed the reporting officers that the vehicle driven by Civilian 1 was listed as stolen.

The vehicle driven by Civilian 1 pulled into an empty lot covered with gravel located at XXXX W. Grand Avenue, drove over a posted sign before striking a billboard. Civilian 1, Subject 1 and Civilian 3 exited the stolen vehicle and fled on foot. After a brief foot chase, Civilian 1 was placed into custody without incident near XXXX N. Kostner Ave. (Att. 11, 16 – 19)

Additionally, department reports for Subject 1 relate that Subject 1 was in the front passenger seat of a stolen vehicle, operated by co-arrestee, Civilian 1. Subject 1 jumped out of the front passenger seat near XXXX W. Grand Ave. and Officer B conducted an emergency takedown. Subject 1 began flailing his arms and pulling away in an attempt to defeat a lawful arrest. Officer B was on top of Subject 1 and was unable to place him in handcuffs due to his resistance.

Sergeant A stunned Subject 1 with the bottom of his foot temporarily causing Subject 1 to stop resisting and allowing Officer B to place the handcuffs on Subject 1. Subject 1 sustained a bruised cheek, lacerations on his chin and an abrasion to his leg as a result of this incident. Subject 1 was charged with resisting arrest amongst other charges. (Att. 5, 16 – 19)

It is further reported that, co-arrestee Civilian 3 was arrested near XXXX N. Kolmar Ave. Civilian 3 was seated in the rear of a stolen vehicle operated by co-arrestee Civilian 1. Civilian 3 fled from the stolen vehicle carrying a young girl, now known as Civilian 4, with Officer A giving chase. Civilian 3 was placed into custody without incident. (Att. 9, 16 – 19)

A **Traffic Pursuit Report** documents the basis and procedure of the pursuit².

According to the **Tactical Response Report (TRR)** completed by Sergeant A, Subject 1 did not follow verbal direction, stiffened, fled, pulled away and attempted to defeat arrest. Sergeant A responded with member presence, verbal command and stunned Subject 1 on his back with the bottom of his foot. Subject 1 informed Lieutenant A that someone stomped on his head. (Att. 7)

According to the **TRR** completed by Officer B, Subject 1 did not follow verbal direction, stiffened, fled and pulled away. Officer B responded with member presence, verbal commands, armbar and take down/ emergency handcuffing. (Att. 8)

The **Body Worn Camera (BWC)** assigned to Officer A depicted Officer A driving his assigned vehicle and giving direction of travel regarding the traffic pursuit to Officer B. Officer A then exited the vehicle and proceeded to chase an individual now known as Civilian 3 while stating words to the effect of, “Hey mother fucker, I know who you are Civilian 1.”

The **BWC** assigned to Sergeant A depicted Sergeant A exit the vehicle and stated words to the effect of, “Get on the floor motherfucker,” and “I’ll beat the fuck out of you,” to a male Hispanic, now known as Subject 1. Sergeant A walked over to Subject 1, who was laying facedown on the ground, and told him to be still. Later, Subject 1 is heard accusing Sergeant A stomping on his head.

The **BWC** assigned to Officer B depicted Officer B sitting in the passenger seat of his assigned vehicle. During the traffic pursuit, Officer B gave travel directions of the pursuit via radio. Officer B then exited the vehicle and ran in the direction of the offenders. The actions of Officer B and Subject 1 were not clear as the view of the camera was covered and sounds of

² No allegations were brought based on the pursuit as Officers BWC and pursuit reports support that the pursuit was conducted within policy

movement was heard. At some point, Subject 1 was seen on facedown on the ground and Sergeant A placed his foot on Subject 1's head area. Later, Subject 1 is heard complaining that Sergeant A stomped on his head. Officer B is heard offering Subject 1 medical treatment.





The BWC's obtained from additional assisting Department members do not depict misconduct. (Att. 30 – 58)

According to the **OEMC Event Query** Sergeant A, Officer A and Officer B were involved in a traffic pursuit regarding a stolen vehicle driven by Civilian 1 on September 20, 2016 at

approximately 8:00 p.m., in the vicinity of XXXX W. Grand Avenue. Additional Department vehicles assisted with the pursuit. (Att. 13 – 15, 26, 27)

The **Evidence Technician Photographs** of Subject 1 depict injuries to his left arm, the left side of his face, his lower right leg, and his chin. (Att. 22)

According to the **Chicago Fire Department** run sheet CFD Ambulance XX was dispatched to XXXX N. California (XXth District Station) at 2031 hours and arrived at the scene at 2037 hours. It is reported that Beat XXXX took the patient (name unknown) into custody and no ems was needed. (Att. 24)

According to the **Medical Records** obtained from Hospital A Subject 1 was admitted to the emergency room on September 21, 2016 in police custody. Subject 1 complained of lacerations to his chin, face and right shin. Subject 1 received several sutures for the laceration to his chin and his right shin. (Att. 59)

Interview of witness Officer B

In his statement to IPRA on May 5, 2017, Officer B stated that he was assigned to Beat XXXXX along with Officer A and Sergeant A on the date and time of the incident. Officer B related that he was the front passenger, Sergeant A was the rear passenger and Officer A was the driver of their assigned unmarked Ford Explorer. Officer B stated that their assigned vehicle was not equipped with a dash camera. Officer B related that his body camera was activated during the time of the incident.

Officer B related that as Officer A was driving eastbound on North Avenue between Central Park and Drake, Officer A noticed something, made a U-turn and requested that Officer B check a license plate. Officer B explained that the results indicated that the vehicle was stolen. Officer B informed the OEMC dispatcher that they were following a stolen vehicle and requested assistance. Officer B stated that the emergency equipment was activated as they followed the stolen vehicle.

Officer B stated that the driver of the vehicle failed to pull over and eventually crashed at the location of incident. Officer B related that after the stolen vehicle crashed, the front passenger, now known as Subject 1, exited the stolen vehicle and proceeded to flee from the scene. Officer B exited his assigned vehicle, ran towards Subject 1, grabbed Subject 1 by his clothes and tackled Subject 1 to the ground. Officer B added that while on the ground, Subject 1 continued to resist by pulling away and swinging his arms. Officer B related that after he handcuffed Subject 1, Subject 1 informed him that one of the officers stomped on his head.

After reviewing his assigned body camera, Officer B stated that while he was attempting to handcuff Subject 1, Sergeant A stomped Subject 1 on his upper back area. Officer B stated during the incident he did not observe Sergeant A stomp on Subject 1's back area. Officer B claimed that he had "tunnel vision" and did not hear or observe Sergeant A commit the acts alleged against him. Officer B observed injuries to Subject 1's face and leg. (Att. 60,61)

Interview of accused Sergeant A

In his statement to IPRA on May 8, 2017 Sergeant A stated that on the date and time of the incident he was assigned to Beat XXXX. Sergeant A related that he worked with Officer B and Khan who were assigned to Beat XXXXX. Sergeant A stated that he was the rear passenger of the unmarked assigned vehicle. Sergeant A related that Officer A was the driver and Officer B was the front passenger. Sergeant A stated that the assigned vehicle was not equipped with a dash cam. Sergeant A added that his body worn camera was activated during the incident.

Sergeant A stated that Officer A was driving in the vicinity of XXXX Avenue and XXXXXX Park when he noticed Civilian 1 driving a vehicle. Sergeant A explained that Civilian 1 has a history of aggravated high jacking. Officer A asked Officer B to conduct a license plate check on the vehicle that Civilian 1 was driving. Officer B was informed that the vehicle had been reported stolen. Sergeant A related that the emergency equipment was activated and Officer A followed the vehicle as Officer B notified the OEMC dispatcher. Sergeant A informed the OEMC dispatcher that he was in the vehicle with Officer B and Officer A.

Sergeant A related that after the emergency equipment was activated Civilian 1 refused to curb the stolen vehicle. Sergeant A stated that Civilian 1 struck a sign before crashing into a building. Sergeant A related that the occupants of the stolen vehicle exited the vehicle and fled the scene. Sergeant A stated that he, Officer A and Officer B exited their assigned vehicle in pursuit of the occupants.

Sergeant A stated that Officer B grabbed Subject 1 and conducted an emergency takedown, which he described as a tackle. Sergeant A related that Subject 1 resisted arrest by turning back towards Officer B, thrusting his arms and kicking back and forth. Sergeant A explained that Subject 1 and Officer B were on the ground and it was hard for him to assist Officer B with his hands. Sergeant A stated that he momentarily stunned Subject 1 with his foot on Subject 1's back. Sergeant A related that after he stunned Subject 1 with his foot Subject 1 stopped resisting and Officer B handcuffed Subject 1 without further incident.

Sergeant A described Subject 1 as an active resistor. Sergeant A contended that he was within Department policy when he stunned Subject 1 on his back with his foot. Sergeant A described a stun as a thrusting hit on an individual to get him/her to comply. Sergeant A denied kicking or stomping Subject 1 on his body. Sergeant A described a stomp as using all of your body weight with your foot or feet. Sergeant A also described a kick as a forward thrust with the toe of your shoe. Sergeant A related that he was not sure if his foot made contact with Subject 1's neck. Sergeant A denied stunning Subject 1 on his head with his foot.

Sergeant A stated that the profanities used during Subject 1's arrest was outside of his character. Sergeant A contended that he does not normally use profanities when addressing civilians. Sergeant A stated that he did not recall hearing Subject 1 complain of being stomped on his head. Sergeant A related that he observed injuries to Subject 1 and requested medical treatment for Subject 1 via the Chicago Fire Department. Sergeant A could not recall the injuries Subject 1 sustained. Sergeant A related that Subject 1 may have sustained the injuries during his arrest. (Att. 65)

Interview of accused Officer A

During his statement with IPRA on May 11, 2017 Officer A stated that he was assigned to Beat XXXXX along with Officer B and Sergeant A on the date and time of the incident. Officer A related that he was the driver, Sergeant A was the rear passenger and Officer B was the front passenger of their assigned unmarked Ford Explorer. Officer A stated that their assigned vehicle was not equipped with a dash camera. Officer A related that his body camera was activated during the time of the incident.

Officer A essentially related the same information as Officer B and Sergeant A with regards to the pursuit of the stolen vehicle driven by Civilian 1. Officer A stated that when the occupants exited the stolen vehicle he chased two of the occupants on foot. Officer A related that he did not witness the contact that Officer B and Sergeant A had with Subject 1. Officer A continued that after a brief foot chase he handcuffed Civilian 3 without incident. Officer A stated that Civilian 1 was apprehended by the assisting officers who responded to the location.

Officer A stated that he authored the case report after he obtained information related to the incident from Officer B and Sergeant A. Officer A related that he did not observe Sergeant A commit the acts that were alleged against him as he was not present during Subject 1's arrest. Officer A also stated that he did not recall reviewing footage from Officer B's or Sergeant A's body worn cameras. Officer A related that he did not hear Subject 1 complain of being stomped on his head. Officer A observed injuries to Subject 1's chin and leg.

Upon inquiry, Officer A stated that he did not recall directing profanities while running after Civilian 1. After reviewing his assigned body worn camera, Officer A related that he did not have any plausible explanation as to why he directed profanities. Officer A contended that he does not normally use profanities when addressing civilians. Officer A stated that his actions were out of character. (Att. 69)

COPA Investigator

Supervising Investigator

CONCLUSION & ANALYSIS:

COPA recommends a finding of **Sustained** for **Allegation 1** against Sergeant A that he used his foot in a downward motion (stomped) on the upper back/neck/head area of the victim, Subject 1, in violation of Rule 2 and Rule 8 of the Chicago Police Department Rules. In his statement to IPRA Sergeant A denied that he stomped Subject 1 about his body. Sergeant A contended that he stunned Subject 1 on his upper back with the back of his foot. Sergeant A also denied kicking Subject 1 about his body. The body cam footage obtained from Officer B's body

camera depicted Sergeant A using his foot in a downward motion of the upper back/neck/head area of Subject 1. In his statement Sergeant A stated that his foot could have made contact with Subject 1's neck. Sergeant A denied that his foot made contact with Subject 1's head. In the video footage, Subject 1 complained that Sergeant A stomped him on his head, though the actual location of the kick was out of camera view. Although Subject 1 did not cooperate with this investigation, based on the evidence it is more likely than not that Sergeant A used his foot in a downward motion (stomp/kick) on the upper back/neck/head area of Subject 1.

An officer's level of force used as a response to a subject must be appropriate based on the subject's level of aggression. The directives of the Chicago Police define a subject's level of aggression in several categories ranging from cooperative subject, to a passive and active resister and finally an assailant. The first step in the analysis is determining the subject's level of aggression based on their actions and the totality of the circumstances.

In the instant case, the arresting officers stated that Subject 1 was resisting at the time of the arrest. His flailing can be seen on camera. At no point do the officers describe Subject 1's actions as more than attempting to defeat the arrest. In fact, the TRR describes Subject 1 as an active resister. Sergeant A, used a kick to the back of Subject 1's neck or back. According to G03-02-02 (C)(1)(a) a kick is a direct mechanical strike that can be used on an assailant. As defined in the order; an assailant without weapons is a subject who places a member in fear of receiving a battery. Clearly, Subject 1 was not an assailant. Sergeant A described his actions as a stun with his foot, however the general order describes a stun as a diffused pressure strike or slap. Using the heel of a boot is clearly not a stun. Under the circumstances, Sergeant A used unjustified force on Subject 1.

COPA recommends a finding of **Sustained** for **Allegation 2** and **Allegation 3** against Sergeant A that he stated words to the effect of, "Get on the floor motherfucker," and "I'll beat the fuck out of you," in violation of Rule 2 and Rule 9 of the Chicago Police Department Rules and Regulations, COPA recommends a finding of Sustained. In his statement to IPRA Sergeant A stated that the words heard on the footage from the body camera was out of his character. Sergeant A failed to give an explanation as to why he directed profanities. Although Subject 1 did not cooperate with the investigation, based on the available evidence Sergeant A was in violation of Department Rules and Regulations when he stated, "Get on the floor motherfucker," and "I'll beat the fuck out of you," to Subject 1.

COPA recommends a finding of **Sustained** for **Allegation 1** against Officer A that he stated words to the effect of, "Hey motherfucker. I know who you are Civilian 1," in violation of Rule 2 and Rule 9 of the Chicago Police Department Rules and Regulations, COPA recommends a finding of Sustained. In his statement to IPRA Officer A stated that the words on the video footage from the body worn camera was out of his character. Officer A failed to give a plausible explanation as to why he directed profanities. Based on the available evidence Officer A was in violation of Department Rules and Regulations when he stated, "Hey motherfucker, I know who you are Civilian 1."

Deputy Chief Administrator

FINDINGS:

Accused 1: Sergeant A, Star XXXX

Allegations 1: Sustained

Allegations 2: Sustained

Allegations 3: Sustained

Accused 2: Officer A, Star XXXX

Allegation 1: Sustained